

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ALVION PROPERTIES, INC.)	Chapter 11
)	
Debtor.)	CASE NO. 15-40462
)	

MOTION FOR PARTIAL DISTRIBUTION OR TO DISMISS CHAPTER 11 CASE

NOW COMES the Debtor, by its attorney, Douglas A. Antonik, and states the following in support of this Motion.

1. Debtor filed a voluntary Chapter 11 bankruptcy petition on May 14, 2015.
2. During the administration of the Chapter 11 case, the Debtor filed a Motion to Sell a majority of its real estate on November 20, 2015.
3. An Order authorizing the sale of its real estate pursuant to Bankruptcy Code §363 was entered on December 15, 2015 which realized \$6,021,270.00 to the Debtor.
4. Of that amount, and at closing, secured liens were paid to the following entities:
 - a. Farmers State Bank of Alto Pass received the sum of \$1,705,325.46;
 - b. George Howard and SWRR Properties, Inc. received the sum of \$2,000,000.00;

- c. Coffman Law Group, as attorney and agent for judgment lien creditors Berkeley Law and Technology Group, LLP, DuretteCrump, PLC, The Creekmore Law Firm, PC and Richard L. Coffman, PC received the sum of \$779,039.10.

5. The disbursing agent appointed in this Chapter 11 case, Robert E. Eggmann, received the sum of \$1,537,355.44.

6. The payment of the above referenced amounts in paragraph 4 to the entities listed above resulted in a payoff of all claims of those entities and payment in full, of all creditors filing a proof of claim.

7. Since receipt of the sale proceeds, the disbursing agent has paid, per court order, professionals, US Trustee quarterly fees and principal salaries.

8. Of the remaining claims listed in the Bankruptcy Schedules as not being unliquidated, disputed or contingent are as follows:

- a. Dana Petway-\$10,000.00;
- b. David Cox-\$10,000.00;
- c. Robinson Smith and Wells-\$10,203.25;
- d. Day and Blair PC-\$8,814.17;
- e. The Nolte Law Firm PC-\$320.82.

9. The total amount of the above allowed claims to be paid in this bankruptcy are \$39,338.24.

10. Don Rishell/Pegula Rishell, LLC. have filed an appeal of the Court's written order of May 5, 2016 that both entities do not have a valid claim.

11. On May 9, 2016, Don Rishell and Pegula Rishell, LLC filed a Notice of Appeal.

12. Pegula Rishell, LLC filed a Notice of Appeal without an attorney despite previous admonitions by the Bankruptcy Judge that Pegula Rishell, LLC had to appear by an attorney.

13. Pursuant to Bankruptcy Rule 8009(a), the appellant is to file and serve a designation of the record on appeal and statement of issues and serve the appellee with copies within fourteen (14) days.

14. Don Rishell and Rishell Pegula, LLC failed to file the designation of record of appeal and statement of issues.

15. Alvion and disbursing agent Robert Eggmann have filed motions to dismiss the appeal with the District Court due to Rishell and Rishell Pegula, LLC failure to prosecute the appeal and Rishell Pegula LLC attempting to appear and appeal without an attorney. The District Court has entered an order to show cause why the appeal should not be dismissed with prejudice on or before July 19, 2016 and further has set July 27, 2016 as the deadline to object to the motion to dismiss.

16. The Debtor respectfully requests this court dismiss this chapter 11 proceeding as Rishell et al has failed to prosecute the appeal and keeping this case open is prejudicial to the Debtor and its remaining creditors.

17. Alternatively, the Debtor requests the Court allow partial distributions to the Debtor's remaining creditors as set forth above and a partial distribution to the Debtor with the disbursing agent to retain \$450,000.00 which is more than Rishell's suggested \$400,000.00 claim.

18. There will be due and owing additional professional fees, subject to Bankruptcy Court approval, to professionals retained in this bankruptcy case plus United States' Trustee fees.

19. Debtor suggests the disbursing agent retain an additional \$100,000.00 of the funds in the account which should be sufficient to satisfy all outstanding approved professional fees that have yet to be paid and additional US Trustee fees.

20. Debtor requests an Order be entered dismissing this Chapter 11 bankruptcy proceeding, reserving \$100,000.00 for payment of approved professional fees and expenses, and directing the disbursing agent to pay the entities listed in paragraph 8, any outstanding United States Trustee quarterly fee with the remaining of monies immediately paid over to the Debtor.

21. The Court is to retain jurisdiction to determine the allowable professional fees and expenses to be paid from the funds being held by the disbursing agent and after said approved fees are paid, the remaining balance disbursed to the Debtor.

WHEREFORE, the Debtor prays that the Court enter an Order dismissing this Chapter 11 case, directing the disbursing agent to pay the claimants as referenced above, or, in the alternative, order such partial distributions as set forth above and for such further relief as the Court deems just.

ALVION PROPERTIES, INC., DEBTOR

BY: /s/ Douglas A. Antonik
DOUGLAS A. ANTONIK #06190629

ANTONIK LAW OFFICES
3405 Broadway
P.O. Box 594
Mt. Vernon, IL 62864
Telephone: 618-244-5739
Facsimile: 618-244-9633
antoniklaw@charter.net

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Motion to Dismiss Case was served upon:

Mark Skaggs, U.S. Trustees Office, 401 Main Street, Suite 1100, Peoria, IL 61602

Ziemer, Stayman, Weitzel & Shoulders, LLP, Attn: Nick j. Cirignano, P.O. Box 916, Evansville, IN 47706-0916

Joel A. Kunin, Esq., The Kunin Law Offices, LLC, 1606 Eastport Plaza Drive, Ste. 110, Collinsville, IL 62234-6134

The Coffman Law Firm, Richard Coffman, 505 Orleans, Suite 505, Beaumont, TX 77701

Laura Hughes, Bryan Cave, LLP, One Metropolitan Square, 211 N. Broadway, Suite 3600, St. Louis, MO 63102

Dana Petway, 250 Sandersferry Rd., Condo 29, Hendersonville, TN 37075

David Cox, PO Box 789, Harrisburg, IL 62946

Robinson Smith and Wells, 633 Chestnut St., Ste. 700, Chattanooga, TN 37415

Day and Blair, PC, 5300 Maryland Way, Ste. 300, Brentwood, TN 37020

The Nolte Law Firm, PC, 1427 W Main Street, Richmond, VA 23220-4629

Robert Eggmann, Desai Eggmann Mason LLC, 7733 Forsyth Blvd., Suite 800, St. Louis, MO 63105

Alvion Properties, Inc., 22 S. Main St., Harrisburg, IL 62946

Case Coal, LLC, 207 Lewiston, Grosse Pointe Farms, MI 48236

Don Rishell, 15100 Milagross Dr., Apt 205, Fort Meyers, FL 33908

Pegula Rishell, LLC c/o Don Rishell, 15100 Milagross Dr., Apt 205, Fort Meyers, FL 33908

Shirley Medley, 313 Country Club Lane, Harrisburg, IL 62946

HM Jack Reynolds, PO Box 668, Dunlap, TN 37327

All creditors and interested parties of record

either electronically or by enclosing in an envelope with postage fully prepaid and by depositing said envelope in a U. S. Post Office mail box in Mount Vernon, Illinois, on the 8th day of July, 2016. The above is true and correct to the best of the undersigned's knowledge.

BY /s/ Alisha Finke
Alisha Finke